



ORDINANCE

REGARDING THE APPROVAL OF TRAFFIC CONTROL DEVICES IN SITE PLAN APPROVALS

CITY OF NASHUA

In the Year Two Thousand and Ten

The City of Nashua ordains that Chapter 190 “Land Use”, Article XVII “Site Plan Procedures”, Section 190-146 “Site plan procedures generally” of the Nashua Revised Ordinances, as amended, be hereby further amended by adding the new underlined language as follows:

“§ 190-146. Site plan procedures generally.

...

- D. Approval criteria. In determining the acceptability of a proposed site plan, the Board shall take into consideration the effect of the proposed development on health, safety, nuisance, property values, aesthetics, traffic conditions and future highway improvements. The site plan shall conform to each of the following criteria unless a waiver from a particular standard is granted pursuant to § 190-148:

...

- (6) The proposed use shall not generate excessive traffic or demands or parking as determined in accordance with Article XXIII. If the Planning Board determines that the development contemplated by the proposed site plan would generate substantial traffic into and out of the proposed development, the Board may require the owners of the proposed development to make improvements to the street or streets from which access will be gained to the development site. Such improvements may include construction of additional street width for additional vehicle capacity, turning lanes, median dividers, and/or traffic-control signals and

signage but shall be limited only to those streets which directly abut the development site or are no more than 500 feet from a property line of the proposed development. Pursuant to RSA 47:17, VIII, all traffic control devices must be approved by the Board of Aldermen through legislation. Any pavement widenings shall only be required within an existing right-of-way and/or on land under the control of the developer....

....”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall take effect upon passage.

LEGISLATIVE YEAR 2010

ORDINANCE: O-10-33

PURPOSE: Regarding the approval of traffic control devices in site plan approvals

SPONSOR(S): Alderman-at-Large David W. Deane

COMMITTEE ASSIGNMENT:

FISCAL NOTE: None.

ANALYSIS

This legislation confirms existing law which provides that “city councils shall have the power to make bylaws to regulate the use of highways by establishing stop intersections, by erecting stop signs, yield right-of-way signs, traffic signals and all other traffic control devices on those highways over which the city council has jurisdiction”. RSA 47:17, VIII. This has not been the practice with respect to traffic control devices required by site plan approvals, which has resulted in traffic control devices in the city which are not referenced in the code of ordinances.

However, there could be some limitation on the Board of Aldermen’s ability to reject traffic control devices required by site plan approvals. *Ehrenberg v. City of Concord*, 120 N.H. 656 (1980) found that the Concord city council exceeded the scope of its jurisdiction by considering growth-related issues in its decision to deny the plaintiff’s petition for granting utilities extensions to a planned unit development project that the Concord planning board had previously approved. Although the court noted that the city council had jurisdiction to grant or withhold permission to extend the utilities, they only had a narrow range of issues they could consider given that there was a planning board in the city that has exclusive platting and subdivision jurisdiction. So the city council could not revisit the same issues as the planning board and make a different decision.

Planning and zoning ordinances and amendments require a public hearing and referral to the city planning board. RSA 675:2; NRO § 190-132. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least ten (10) days prior to the date of the hearing. RSA 675:7. That notice shall not include the day notice is posted or the day of the public hearing. Under RSA 676:12 and NRO § 105-3, no building permit may be issued after the legal notice has been posted if the proposed changes would, if adopted, justify refusal of the permit. The restriction lapses 120 days after the first legal notice.

Approved as to form:

Office of Corporation Counsel

By: Dowling Clarke

Date: August 24, 2010



ORDINANCE

REGARDING THE APPROVAL OF TRAFFIC CONTROL DEVICES IN SITE PLAN APPROVALS

CITY OF NASHUA

In the Year Two Thousand and Ten

The City of Nashua ordains that Chapter 190 “Land Use”, Article XVII “Site Plan Procedures”, Section 190-146 “Site plan procedures generally” of the Nashua Revised Ordinances, as amended, be hereby further amended by adding the new underlined language as follows:

“§ 190-146. Site plan procedures generally.

...

- D. Approval criteria. In determining the acceptability of a proposed site plan, the Board shall take into consideration the effect of the proposed development on health, safety, nuisance, property values, aesthetics, traffic conditions and future highway improvements. The site plan shall conform to each of the following criteria unless a waiver from a particular standard is granted pursuant to § 190-148:

...

- (6) The proposed use shall not generate excessive traffic or demands or parking as determined in accordance with Article XXIII. If the Planning Board determines that the development contemplated by the proposed site plan would generate substantial traffic into and out of the proposed development, the Board may require the owners of the proposed development to make improvements to the street or streets from which access will be gained to the development site. Such improvements may include construction of additional street width for additional vehicle capacity, turning lanes, median dividers, and/or traffic-control signals and

**AMENDED
ORDINANCE**

O-10-33

signage but shall be limited only to those streets which directly abut the development site or are no more than 500 feet from a property line of the proposed development. All traffic control devices (pursuant to RSA 47:17, VIII) and all traffic calming measures must be approved by the Board of Aldermen through legislation. Any pavement widenings shall only be required within an existing right-of-way and/or on land under the control of the developer....

....”

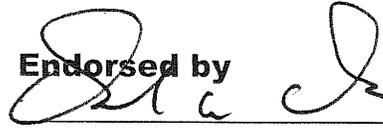
All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall take effect upon passage.

ORDINANCE

O-10-33

Regarding the approval of traffic control devices in site plan approvals

Endorsed by 

DEANE

SHEEHAN

IN THE BOARD OF ALDERMEN

1ST READING SEPTEMBER 15, 2010

Referred to:

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE, NASHUA PLANNING BOARD AND PUBLIC HEARING ON TUESDAY, OCTOBER 5, 2010 AT 7:00 PM IN THE ALDERMANIC CHAMBERS

2nd Reading OCTOBER 26, 2010

3rd Reading _____

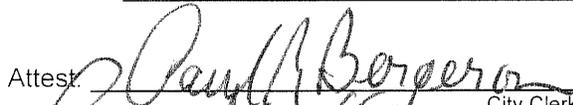
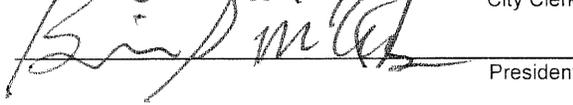
4th Reading _____

Other Action _____

Passed OCTOBER 26, 2010

Indefinitely Postponed _____

Defeated _____

Attest  City Clerk
 President

Vetoed: _____

Veto Sustained: _____

Veto Overridden: _____

Attest: _____
City Clerk

President

Approved _____

TOOK EFFECT SEVEN DAYS AFTER PASSAGE WITHOUT THE MAYOR'S SIGNATURE - NOVEMBER 3, 2010

Mayor's Signature